James Steuarts
ANSWER
To a Late Writ by
Mijn Heer Fagel
Pensioner to the States of HOLLAND,
and WEST-FRISLAND,
Concerning the Repeal of the
Penal Laws
AND
Tests

London Printed, And Re Printed in *Ireland*
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BRITISH MUSEUM

JAMES STEWARTS ANSWER TO Penſioner FLAGEL'S LETTER.

My Lord,

I Was ſo much ſurpriſed to ſee a Letter appear in Print in *January* laſt, Entituled, *A Letter writ by Mijn Heer* Flagel *Penſioner of* Holland, *to* Mr. James Stewart *Advocate, giving an account of the Prince and Princeſs of* Orange's *thoughts concerning the Repeal of the Teſts, and of the Penal Laws*; that reflecting on my own meanneſs, with the far different figure that your Lordſhip makes in the World, and withal conſidering the remoteneſs of the occaſion given for *that Letter*, the high and tender import of the matters therein treated, with the obvious ſingularity of ſuch a ſtraign Interpoſition, beyond all ordinaty Lines and Rules, I was, at firſt inclined to diſ-believe my own eyes.

True it is, that after my return into *England* i *July* laſt, I was ſo well ſatisfied with what I obſerved of his *Majeſties* ſincere Intention, and ſtead Reſolution, to perfect the Setlement of our Religious Liberty, by a Legal and Perpetual Eſtabliſhment, (which I doubted not would cal the late violent diſtractions of theſe Kingdom and in the end overcome that froward oppoſi on which remains in ſome Spirits, too narrow

ſuch a Bleſſing) that I thought I could not, in my little *Sphere*, do a piece of better Service both to GOD and Man, than to contribute my ſmal endeavours, towards the advancing of ſo good a Work, and particularly, towards the removing of ſome miſtakes and jealouſies, which I knew to be entertained in thoſe parts that I had left.

For this end, having obtained leave to write to a private Friend, who I judged might have opportunity to repreſent any thing I could ſay, to the beſt advantage, I did by ſeveral Letters directed to him (for to your Lordſhip I neither ſent nor directed any, as looking upon that to be a thing not only too preſumtuous, but alſo moſt improper, and againſt which I was expreſly cautioned) declare in what a different poſture I had found things in theſe Kingdoms, from what I and others had believed them, while I was in *Holland*; and having in two of them eſpecially, (the only Letters intended for communication) laid down for my ground his *Majeſtie's* Sincerity in all this affair, evident not only by his Royal Word, but even demonſtrable by things themſelves, I proceeded to evince by a few Arguments the Equity and Expediency of repealing both *Teſts* and *Penal Laws*, and that with a peculiar regard to the *Prince* and *Princeſs* of *Orange's* intereſt.

And being grieved in my ſelf at the conſideration of their Highneſſes Reluctancy to the thing,

and

and Uneasiness about it, especially as to the Repeal of the *Test*; and wishing, as I do still, that from the beginning they had complyed more heartily with his *Majesties* pleasure for the establishing of this *Liberty*, and that they would yet resolve to concur with him in it, or that at least the obstruction of their known Dissent might be removed; I adventured to add the best perswasives I could think on for that effect; desiring in the end that what I had written should be imparted to Friends, and chiefly to those at the *Hague*, (whereof I hope your Lordship is still One, according to the honour you were pleased to allow me while I was there) for their more full Information and Satisfaction. And this, to the best of my remembrance, is the Sum and Substance of all I writ on that occasion.

To this, after some waiting, I had my Friends Answer, telling me that he had conferr'd with you upon the Subject, and found that the *Prince* had already declared himself in these matters, and particularly to the *Lord Albeville* His *Majesties Envoy*; and that He was not to be moved to go any greater length in them than he had then express't. That Answer having drawn from me a Return of some more earnest Expressions of my grief for so great an unhappiness, I resolv'd to insist no further. Only my Friend insinuating that he had still hopes to get a more distinct satisfying Answer from a better hand, (tho wi

out naming any person) I attended the issue: And accordingly about the beginning of *November* (almost three Months after my first Writing) he sent me a Letter from your Lordship writ in *Latine*, with an *English* Version.

Those I received at *London*: And acknowledge with all humility the singular Honour you were pleased to do me therein; which on any other occasion I should certainly have expressed my sense of, with all readiness. But finding them to be Letters directly from your Lordship, (to whom I had not written) and that they contained an account of their Highnesses thoughts, about the Repeal of the *Tests* and *Penal Laws*, (which I had not desired) together with your own Reasonings in justification thereof; Both your publick Character, and the matters treated, moved me to put them immediately out of my hands, in the most safe and dutiful manner; resolving rather to refer my self to the knowledge that some persons had of my ways, for clearing the mistake insinuated in the entry of your Letter, (as if I had presumed to write to you, or for such a purpose than to pursue with more noise an explication of what I thought would proceed no further. Yet my Friend advising me, by the next Post after that which brought your Letter, that when you gave it to him, you told him you had given out Copy or two to Friends there; And my Apprehensions suggesting that a Letter, so diligently

and accurately writ upon ſo ſlender an occa-
on, might either have a further proſpect, or at
eaſt be further made uſe of, I immediately re-
urned him anſwer, that, tho I was confident you
ere far from interpoſing in his *Majeſties* Affairs,
y cauſing any thing to be printed to his Diſ-
ervice, and no leſs aſſured, that you would not
uffer ſo obſcure a name as mine to be unneceſſa-
ily heard of in ſo great matters, yet I knew how
eady ſome perſons in your Parts were to lay
old on any thing that might croſs his *Majeſties*
urpoſe, for the Eſtabliſhiug of this *Liberty*; And
herefore I intreated him to uſe his utmoſt en-
eavours for the prevention thereof. And ac-
ordingly I had his return, that though he fear-
d you were no more maſter of the Copies you
had given out; yet as to my private Letters, writ
o familiarly and ingenuouſly to himſelf, he
would undoubtedly ſecure them.

So that truely when I firſt ſaw the *printed Let-
er* above mentioned, and perceived by the *Im-
reſſion* that it was done in *Holland*, I did not doubt
but it was done without your Lordſhips privity,
nd therefore laid it aſide without once reading it.

But now that there is come abroad a new Print
n your Lordſhips name, (upon what provoca
ion I know not) which plainly affirms, "*That
you were very earneſtly deſired by me to write what
were the Prince and Princeſs of* Orange's *thoughts
concerning the Repealing of the Teſt and Penal Laws*
"*and*

" *and that it was intimated to you that these pressing* " *desires were made by His Majesties Knowledge and* " *Allowance*; I can no longer forbear, for the Vindication of his Majesties Honour, and my own Duty, to crave leave to say, with all submission, that the difference of this Account from what I have above represented, (and which I am sure it is true in every point,) must of necessity flow from some mistake in the Report you have had of my Letters. For since I did not write any Letter to your self, and that my writing to my Friend was not out of any curiosity to know their Highnesses thoughts about the Repealing of *Penal Laws and Tests*, (which it is evident I already knew sufficiently, and which had been, as you well say, before particularly signified to the *Marquiss of Albeville*) But for a quite different purpose, as I have before ingenuously represented it; How could His Majesties Knowledge and Allowance be avouched by me for that which was not? It is true, I find it said in one of mine, *That what I write on the nineteenth of July, was writ not only with permission, but according to his Majesties minde sufficiently expressed.* And this may also have been elsewhere repeated in other terms. But its as true, that the intent and meaning of these words, was only to inforce some arguments I had used for *Liberty*, which my Friend inclined to think I had too confidently advanced; and no wayes to assume to my self an Authority for writing what I really

ly neither had writ, nor intended to writ. There being nothing more certain than that, although his Majesty might have permitted me, as he doeth many others, to use my little endeavours for the advancing of his Service, yet it was never either thought by my self, or moved to me by any other to write to your Lordship, or to any other Person, either in his *Majesties* name, (a presumption and indecency which I cannot mention without blushing) or in the name of any of His Secretaries: And neither was there the least necessity to inquire into their Highnesses thoughts in the aforesaid matter, since they were already perfectly known, and to none more distinctly than to his *Majesty* himself, as my Letters do very plainly suppose.

Seeing therefore that this last Print doth, in several passages, initimate that your Letter of the fourth of *November*, was not only a true Letter, but published by your Order, (tho I know not why it should insinuate, as if that Letter had been first Printed in *England*) and that any thing relating to me is manifestly extrinsick to the point of the reality of your Letter; I cannot but again in all humility wish that your Lordship had forborn to press so hard upon me, for justifying a publication which evidently was a pure Act of your own free choice, and no doubt calculated for a far more different End than what was by me intended.

But since I have acknowledged that you did me the honour to writ to me, and that you now own the printed Copy, to be the true Copy of what was so write, and thereby as it were call me to consider it more particularly; I shall no longer decline the liberty you allow me, but freely explain my thoughts upon it in all sincerity; and submit them to your profound Judgement; Especially, seeing it is in order to no other Ends than those I formerly proposed, and which I am perswaded You approve as much as I do.

What you declare to be their Highnesses thoughts and opinion, concerning the Repeal of the *Test* and *Penal Laws*, as it was not the Subject of my Inquiry, so it is above the Sphere of my Consideration; only seeing They seem to be under no restraint, as to a full compliance with his *Majesties* Design, except from their care of the Security of the *Protestant Religion*, I am not without hopes, that, when they shall have considered his *Majesties* no less express Purpose for the Establishment of Liberty, (the only Secular Security and Advantage that GODS Religion requires) than for the procuring of the aforesaid Repeal in order to Mens just Relief, Their Highnesses second Thoughts may yet happily advance, and ripen so fair an Appearance.

But the Question, as by me formerly stated, was precisely, '*Whether all* Protestant Dissenters *ought not to concur with His* Majesty, *by contributing*

'ing their beſt Endeavours to have the Penal Laws
'matters of Religion and Conſcience abrogated, and th
'preſent Liberty Legally Eſtabliſhed and Fixt; An
'whether, if his Majeſty ſhould in Favour of his Ro
'man Catholick Subjects think fit to make the abro
'gating of the Teſt a condition of the continuance of his
'Grant of Liberty, He ought not in this alſo to be readi-
'ly gratified, for ſo great a Favour. Now your Agreement as to the entire Abrogation of all *Penal Coereive Laws* is altogether becoming your ſound Judgement, and Chriſtian Charity. Your Hæſitation ſeems to be about the *Law of the Teſt*, and thoſe other Laws made for excluding *Roman Catholicks* from Publick Truſts, and ſecuring the *Proteſtant Religion*; to the Repeal whereof you think no *Proteſtant* can in Conſcience conſent. And the Sum and Force of all your Reaſonings reſolves into this; *That the Laws for the Teſt and diſabling* Roman Catholicks *to enjoy Publick Truſts: contain no Severities againſt them, nor import any wrong that any who cannot comply with their Conditions ought juſtly to complain of*; *But that they were fairly made according to the Cuſtom of all Chriſtian States, and the very Natural Right of all Politick Bodies, who have ever made Laws for the ſecuring the Publick Eſtabliſhed Religion, and their own Safety, by excluding the Enemies thereof from all Publick Employments. And the Law for the Teſt being of this ſort, you conclude that the Repeal of it would take away all the Security of the* Proteſtant Religion, *and expoſe the Nation to moſt certain*

Danger; *Becauſe All Governours do naturally favour thoſe of their own Religion*; *and the way of* Roman Catholicks *is ſo unequal towards* Proteſtants, *that it muſt be concluded that they would never agree with them in the Joynt-Adminiſtration of Publick Truſts, but would preſs His* Majeſty *in Conſcience untill they were poſſeſſed of All, even to the depriving* Proteſtants *of the Support of the Law, and Protection of the Magiſtrate.* So that on the one hand, it is indeed manifeſt by the whole ſubſtance of your Diſcourſe, That, if the Repeal of the Teſt and Admiſſion of *Roman Catholicks* to Publick Employments do take away all the Security of the *Proteſtant Religion*, and expoſe it to Ruin, then no true *Proteſtant* ought to conſent to it: But on the other hand it follows, no leſs evidently, That if it can be ſhewed that the *Proteſtant Religion* may be ſufficiently ſecured without the Law of the Teſt, and moreover that the Legal Eſtabliſhment of the preſent Liberty (as deſigned by his *Majeſty*) doth in all probability tend more to the Advantage than prejudice of the *Proteſtant Religion*; then they both may, and ought to do it.

But becauſe the matters in hand do, above all others, require a clear and ſound minde, free from all prejudice and pre-poſſeſſion; and are not to be determined by general Rules only and abſtract Notions, but ought to be examined with a juſt exactneſs in all their Circumſtances: Before I go any further, I muſt intreat you (in the firſt

place)

place,) to remember the ſolid Reflection you make in your Letter upon the Spirituality and Heavenlineſs of the Chriſtian Religion: Which I ame ſure, if duly conſidered and improved, would not only convince others, as it doth you, of the abſurdity of all forcible and compulſory methods for its advancement, but alſo compoſe and ſweeten Mens minds, and thereby prepare them to a more clear underſtanding and equitable determination of the point in Controverſie.

That Faith and Obedience towards GOD (which are only ſo far acceptable to him, ſo they proceed from a willing minde) cannot be conſtrained, without an open mockery of GOD, and violence to the rights of Men, is a plain dictate of Reaſon, with all Times and Diſpenſations have acknowledged. But more eſpecially that gentle Spirit of the Goſpel, which Chriſt ſo often owns and recommends, and whoſe Characters are ſo viſible in all His own and His Apoſtles practices, ſeems to carry the thing yet a greater length. I need not put you in minde that the Goſpel was not ſent (as the Law) unto One, but unto all Nations; that our LORD, by aſſerting His Kingdom not to be of this World, doth not only aſſure to all Men their Civil Rights, as then by them poſſeſſed, but in my Opinion removes its Adminiſtration further than is commonly ſuppoſed from all Secular Mixtures;

And

And that GODS Choice of the Foollſhneſs and Weakneſs of Men for its Propagation (deſignedly and expreſly to the greater commendation of the power of his Grace) doth very probably ſupercede much of that humane Caution which men have thought fit, but never with any Succeſs, to add to his better Counſel. But undoubtedly if any man ſeriouſly ponders how the Goſpel at firſt ſet out, and how by its own pure and ſpiritual Weapons, without any aſſiſtance of men's Laws, it proſpered, to the ſubduing of the World; and at the ſame time call to mind that certain Truth, That every thing is beſt preſerved by the ſame Cauſes that produced it; He will hardly be induced to think that theſe Excluſive Laws Laws, which you ſay are now ſo Cuſtomary in all Chriſtian Kingdoms and States, are indeed ſo neceſſary as is imagined for the Conſervation and Security of Religion. For my part, when I reflect on plain matter of Fact, *viz.* That when the Goſpel did at firſt get footing in Cities or Kingdoms, and its Diſciples came afterwards to be perſecuted by the Government and Body of the People, ſtill *Pagan*, (it may be by Teſts as well as other Penal Laws) they did not lay the ſtreſs of their Apologies upon the Truth of their Profeſſion (which they knew their Perſecutors rejected) but only upon their Civil Rights and Liberties, as Men; I cannot but think it very unjuſtifiable for the ſame

Perſon

Persons, or others of the same Persuasion (when afterwards grown more numerous and powerful) to retaliate the same dealing to their old Adversaries. But, not to press too hard upon these Excluding Laws. which I believe many, thinking piously that Gods Gift deserved their best care, have introduced in great sincerity; I shall only add, that as it is evident they were never any where enacted for the Preservation of Religion, until Religion had first prevailed and done its greatest work, So the best Effects they have ever produced, have always been, either to make Hypocritical Converts, or else to distinguish, irritate, and unite into a Factious Obstinacy, such as in probability would sooner have yielded to a more equal and moderate Treatment. But the best of it is, That tho a Ruling Clergy, (the worst of Politicians) have always been observed to be most froward to procure such Sanctions, Yet are they still but Humane Laws and Expedients, and therefore absolutely at the disposal of the same Powers that made them.

But in the next place, Since you have been pleased to interpose so far in our Affairs, let me now intreat you to enlarge your Thoughts a little further upon our present Circumstances. The King is our Soveraign; And his Majesties Persuasion and Religion, with what he hath already done, and may hereafter do, as also what he designs to have done in Parliament touching this

this Liberty, are sufficiently known: Nor are you altogether a Stranger to the State of Religion, the Parties who compose it, the Laws made about it, and the Effects they have produced, within these Kingdoms. Now for my part, I heartily wish that the *Church of England* had always been as much *Protestant* as at present She pretends to be; that now, when she hath leisure, She may no less zealously mind and cleave to her own Doctrine, and its sincere Lovers, than sometime we have seen her violent for her Ceremonies, and angry at Men that were not of her Fashion; and, what ever may be the issue of things, That all *Protestant Dissenters* may always love her more (if more be possible) for our agreement in Substantials, than she hath hated and persecuted them for their disagreement in Circumstantials. But considering what opinion some Men have entertained about the good effects of these Penal Exclusive Laws; And, on the contrary, what Sufferings many Thousands of *Protestants* have in all times undergone, and should still in all appearance have undergone by them, even to their utter undoing, if his *Majesty* had not graciously vouchsafed to hinder it; And observing at the same time how improbable, or rather impossible, it is that the *Church of England*, if in Power, should either remain without those Laws, or suffer those Laws to remain without Execution; I must humbly crave leave to say, that for

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Protestant Dissenters to neglect the present opportunity, and not to comply with his *Majesties* pleasure to have them totally and for ever abrogated, is, in my opinion, no better than to reject the Goodness of GOD, & to abandon themselves to their Adversaries. It hath been the fate of these Kingdoms since the first beginning of our Reformation, that all Parties, *Papist*, *Protestant*, *Prelate*, *Presbyterian*, and *Independent* also, have in their several turns, both practised Persecution, and repented their doing it: And now of late when the last Scene was the blackest, and mens troubles were further hightened by their apprehensions of what was to come, It hath pleased God to raise us up a *Prince*. Who tho he be of another Perswasion, and had (as all thinking men must grant) the fairest advantage to promote it, by pursuing only those methods which he found ready disposed to his hand; yet hath been pleased, out of his just consideration of the true Rights of GOD and Man, and his tender and fatherly care of all his People, to deliver us out of bondage, and introduce us into a State of Christian Liberty. This as it is his *Majesties* peculiar glory, denied to all his predecessors, ought the rather to be closed withal by his People. And surely we are not justly blamable, if neither the unhappy relicks of old Prejudices, nor present Jealousies, nor even future Hopes, do hinder us from embracing the present opportunity of securing

curing to our ſelves and to our poſterity ſo great a Bleſſing.

The greateſt part of what I have here ſaid I know you will readily aſſent to, and that it is only the Law of the *Teſt*, (which you judge to be both righteous and neceſſary) that you would have ſtill maintained. And therefore (referring my full Anſwer upon that head to its proper place) I ſhall only here again put you in mind that the *King* is our Soveraign, whoſe power goes far, both as to the beſtowing of Publick Imployments, and alſo as to the continuing or reſtraining of our preſent Liberty at his pleaſure; That it is to me unaccountable how any *Proteſtant* ſhould think the enjoyment of our preſent Liberty not to be more valuable than all our excluſive Laws; and that, as I have above given a hint of my own ſenſe of all ſuch humane cautions, ſo I hope it will eaſily be made appear, that there is neither that ſecurity in the *Teſt* nor danger in its Repeal, which ſome Men, pretending in ſhew to keep up the *Teſt* againſt *Roman Catholicks*, but intending in reality to keep up the *Penal Laws* againſt Proteſtant Diſſenters, would gladly have you and other Strangers to believe, on their bare aſſertion.

But further yet, I would again humbly beſeech you to obſerve, that it is not a ſimple Repeal of *Teſts* and *Penal Laws* that his Majeſty propoſes, but really and principally the Eſtabliſhment

ment of an equal and fair Liberty; which is the only Secular Advantage, as I have already said, that true Religion requires. Men talk ordinarly of the repeal of *Tests* and *penal Laws*, as if that were the only thing intended: And thereupon their Minds are immediately over clouded with this prejudice; That *the* Protestant Religion *must needs be thereby divested of all Legal Security.* Whereas on the other hand, if they would take notice how careful *His Majesty* hath been in His first *proclamation*, and in His Answer to the most of the *Addresses*, to declare himself for such a just and secure *Liberty of Conscience* as may for ever set us free from persecutions and Impositions, and how, in His late *Proclamation* of the Twenty seventh of *April* last, He publisheth his Resolution to use his utmost endeavours *'to establish Li-'berty of Conscience on such just and equal Foundati-'ons as well render it unalterable, and secure to all People the free exercise of their Religion for ever*; They might easily rest satisfied that the *Protestant Religion* is to lose none of the Security she now enjoys, by all that is intended, save only the power of persecuting and Imposing upon others, which you your self do Condemn.

It is true, you think the imposing of *Tests* upon all persons in publick Imployments is no undue Imposition. But whether it be so or not, and whether the Law of the *Test* be that great and indispensible Security of the *Protestant Religion* which

you endeavour to make it, I shall now go on to consider. And because in effect nothing can be added to what hath been so fully said, and often repeated, by others, on this Subject, I shall do it with all possible brevity.

You say then against the repeal of the Law of the *Test*, and other exclusive Laws; First, *That they contain no unjust Severity.* 2dly, *That such Laws are agreeable to the Right and Rules of all Kingdoms and Civil Societies, and are used in all Christian Kingdoms and Common Wealths.* *And* 3dly, *That they are the chief Security of the* Protestant Religion *in these Kingdoms, and that the taking them away would expose both the* Protestant Religion *and the* People *of these Kingdoms to Danger and Ruin.*

As to the first, whether the exclusive Laws contain any unjust Severity I shal not much contend. It is known that within these few Years we have had in *England Tests* of several Fashions, and for divers Perswasions, and that some of them have been so severe as to throw Men not only out of publick Imployments, but out of their private Callings, and so to deprive them of their *Daily Bread.* A Man may also adventure to say, that, all things duely weighed, *These pretended pious and political Tests* have in our real Experience been more prejudicial to the true Interest of Religion, and the Peace and Welfare of those Nations, than ever their total Repeal can, in the most strained rational Conjecture, be hurtful to either

either of them. So strange and unaccountable a thing is this humour of Testing.

But seeing you seem to confine your self to the *Test* against *Roman Catholicks* appointed principally for the two Houses of Parliament, I shall add more particularly; *First*, that according to what I have above touched, this appears to be but an extraneous unwarranted human Caution, and that it may justly be thought strange, that, after Religion had through its own heavenly Power and Methods prevailed against all the humane Laws, Councils, and other hinderances that stood in its way, Men should relaps, from such Divine Grounds of Confidence, to their own weak Contrivances, for its support and continuance: And further, that, however innocent you may now judge this Injunction to be, *Take the* Test, *or quite all publick Imployments*; Yet I am fully assured, that, If in the Primitive times a *Prince* or other *Magistrate*, turning *Christian*, had, for the better Conservation of his Religion, set forth an Edict to his still *pagan* Subjects, commanding them to *Turn from vain Idols to serve the Living and True God, or else to forsake all publick places and Trusts*, He would have been Condemned for it by Christ and all his Apostles.

Secondly, That the effects of such Exclusions in all times have been no better than their Causes; and that, instead of preserving and securing our *Religion*, they have only brought into it hypo-

critic-

critical and false Converts, or provoked those that were rejected to a more froward Obstinacy, and worse Practices, who otherwise might have been gained by *Gentleness* and *Patience*, which are the genuine Methods of true *Christianity*.

And *Thirdly*, That those who by Birth right have a real Title to all the Honours and priviledges of Peerage, And even all Men, Who, upon the like ground, do naturally judge that they have at least an equal right of access to places and preferments in the *Socities* whereof they are *Members* with others of their Degree and Quality, will never be perswaded to think that there is no *unjust Severity* in those excluding Laws which deprive them either of their acknowledged priviledge, or no less valuable pretensions. And since you are pleased to tell us, That it is their Highnesses Judgment, *That no man should be ill used because he differs from the publick and Established Religion*, I question a little how you can reconcile the *deposing of* Peers, and *civil Excommunication* of all others, (which I am sure is no good usage) for not taking the *Test*, to so true and honest a *Judgment*. It is easie for men who have either got themselves into publick places or got above the desire of such places, by a true *Christian Mortification*, to say with you, *That it is but a small, if indeed an Advantage to have a share in the Government*. But, on the other hand, If it be considered that, As hundreds of Freemen can willingly confine

confine themselves to the narrow corner of a private House, who yet could not endure to be imprisoned in a Palace, so it is the Exclusion, especially when lookt upon as Causeless and Unjust, that, in this Case is really grievous. I am perswaded no impartial man will undertake to vindicate the Laws that enacted it from a great measure of Severity. And this I say from so disinteressed and so unbyassed a Judgment, that for my own part, I sincerely protest that I am not only well content with my present Condition, but (if it might in any sort facilitate his *Majesties* Christian design of Liberty) I would also readily consent that all *Dissenters* and my self amongst the rest, should be made incapable of all the more tempting publick Imployments for ever.

But for justifying of these exclusive Laws, you say in the second place, *That they are agreeable to the Rights and Rules of all Kingdoms, and Civil Societies, to whom it was never denyed to make Laws for their own safety, & for that end to prescribe the Conditions and Qualities that they judge necessary for all that shall bear publick Imployments.* Now that all Governours may and ought to make rational and justs Laws for their safety, and for the due conferring of their publick Imployments, is in my mind so little to be doubted, that it needed not at all to have been mentioned. The only Speculation proper for our case is, *Whether These Exclusive Laws upon the account of difference in Religion*, be either warrantable

warrantable or profitable. And seeing that I have already told you that they not only incroach upon Mens natural and civil Rights and Liberties, the principal Ends of Government, but do also in some sort bring a constraint upon the Profession of the Truth, which ought to be most free, and which the Apostle expresly will have *to stand not in the Wisdom of Man* (such as *Penal Laws* and *Tests* are) *but in the Power so God*, or in the same spiritual and heavenly means whereby it was first established and is undoubtedly best preserved, I shall not trouble you with Repetitions. I see you add that such Laws have also been and are used in all Christian Kingdoms and Common-Wealths: and you might as truely have subjoyned, That even *Protestants*, when prevalent do by their practices justifie *Roman Catholicks* in that very point for which they condemn them in their Discourses. But tho I confess that there is nothing more natural than for Men to be anxiously careful to preserve what they esteem and in this their anxiety to judge their own way the best, especially when either Passion or Self interest enter into the Deliberation; Yet considering the Experience we have had of the fruitfulness of these Exclusions, and that there is nothing more becoming Men, professing to be assured, that their Religion is Christs true Religion, than to rest upon the same Methods for its conservation which he, who had the choice of all,

all, thought only fit to make use of for *its* propagation; and considering also that it hath pleased GOD so to order things, that his Majesty (the Head and Fountain of the Government) is of a different perswasion from the main Body of the People, and so might justly turn all this your reasoning against us; I can scarce forbear to wonder that Men should refuse the fair Equality which he proposeth. Had it been the Divine Will that his Majesty and his People had agreed in the same Profession, it is more than probable, that, whatever might have been his Majesty's Indulgent disposition the present Question would not have been moved. But since this is not our case, and that the Kingdom and Government are certainly in his Hands, I must crave leave to say that your Arguments from the Rights and Customs, and from the providencial Councils of all Governments, makes more against you than for you; and that I am very inclinable to believe that if the Soveraign power were as much *Roman Catholick* in your Provinces as it is with us, it would produce suitable Effects. And therefore since your Argument rather commends his *Majesties* gracious Condescention, than any way impugns his Design, I cannot but wish that, in a matter in it self so indifferent, it may accordingly perswade all Men to a just compliance.

But because the *Indifferency* I here mention is,

that which you can hardly bear, and that the force of all your Reasonings lyes in the third Point, *viz. That these Exclusive Laws are the chief Security of the* Protestant Religion, *and that the taking them away would expose the* Protestant Religion, *and the People of these Kingdoms, to Danger and Ruine*, I shall now proceed to examine more closely what you are pleased to say upon it: Not doubting, in the mean while, but we are fully agreed that the true and principal Security of the *Protestant Religion* consists in its being the immovable Truth of God, which it well laid to Heart would contribute more to its preservation than all the *Tests* and *Penal Laws* in the World: And intreating you still to remember that it is not a bare Repeal of *Penal Laws* and *Tests* that his *Majesty* designs, but the sure and firm Establishment of *Liberty*, (the only secular Advantage, as I have often said, that God's Truth requires) Which if rightly understood, and if a just distinction were made between the free Enjoyment of Civil Rights (the proper Object and End of Government) and that *Liberty of Conscience* in matters of *Religion* over which God has reserved to himself the incommunicable Right, would quickly bring the World to the happiest State that it can ever attain to. These things, I say, being premised, I proceed to observe what you say for making out your Assertion, *viz. That the taking away of these Exclusive Laws would bring*

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Roman Catholicks *into both Houſes of Parliament and all other publick Imployments; That in theſe Imployments they would not agree with* Proteſtants; *But that becauſe of their contrary Principles, Jealouſies would ariſe, which his* Majeſty *would not be able to repreſs; And that there is a great difference between* Roman Catholicks *and* Proteſtants, *becauſe the former Exclude, Supreſs and Perſecute, where ever they can do it ſafely; And if they were admitted into Truſts, they would not only favour their own Religion, as all Men in Power do, but but it would be eaſie for the King to reſiſt them, becauſe they would preſs him in point of Conſcience; and that then* Proteſtants *would want all Support of Law, & Encouragement from the Magiſtrates.*

This way of Reaſoning, ſo manifeſtly proceeding from an over anxious Jealouſie, muſts needs be ſo much the leſs Satisfactory, in that it is obvious to all Men how much that croſs and froward Humour is diſpoſed to convert the moſt proper Antidotes for its Cure, into the Nouriſhment of its Maladv.

But more particularly, *Firſt*, It is evident that the ſtrength of all objected, tho in ſofter Expreſſions, Is *That this deſign of Liberty is only pretended and carried on for the better advancement of Popery.* But, ſeeing his *Majeſty* hath in this matter declared the uprightneſs of his Intentions with the cleareſt and moſt forcible Expreſſions, delivered with all the binding Circumſtances of a full Aſſurance, which from a *Prince* of his Veracity and Firmneſs may

be ſufficient to convince the moſt Incredulous, and alſo confirmed the Sincerity of his Purpoſe by the evidence of things incapable of any conſiſtency with the Deſign ſuſpected, what place can be found for ſo improbable a Suggeſtion? For it being undenyably evident to all conſidering Men that the plain contrary Methods to what his *Majeſty* now practiſes had been the moſt direct and effectual Ones for the introducing of *Popery*; and that the preſſing and carrying on the Execution of *Penal Laws*, begun to his Hand, might in all humane appearance have broken and undone that party which has in all times been judged remoteſt from, and moſt Oppoſite and Zealous againſt *Popery*; and ſo have left that other Party, the *Church of England*, (who after the acting of ſuch an unchriſtian perſecution, would never have been ſtrong enough, nor have had the Hearts to indure the like, and whoſe ſequacious Temper in matters of Religion, falling in with the Intereſt of their Livings and Dignities, may abundantly be ſeen in our Records) to be the only feeble Defenders of *Proteſtancy*, already more than half ruined, Ought not his *Majeſties* Moderate and Generous Deportment ſo contrary to thoſe Methods for ever free Him from ſo foul a Suſpition? This real and moſt ſenſible Demonſtration of his *Majeſties* Truth and Sincerity is ſo much the more to be regarded, in that it is known how His entry into the Government was fortifi-

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ed with the suppressing of Insurrections; which not only might have rendered His power more terrible, and provok'd Him to greater Severities, but also might have been made use of to have involved one way or other (no new thing in the World) a great part of the *Dissenters* in the Fate and Ruine of those broken parties.

But, *Secondly*, although you say, *There is a great difference betwixt Roman Catholicks and Protestants in the business of Persecution*, Yet in the present Controversie, I must beg leave of you, and all *Protestants*, to say that this comes ill from those of the *Church of England*, whose Exclusions, Suppressions and Persecutions, (to use your own terms) all things considered, are in the Judgment of many sober People more Unchristian (tho perhaps not so Severe) than any of those deplorable Instances which you say in many places abroad this Day before our Eyes. It is true that Strangers, having easier opportunity to know the Doctrine of the *Church of England*, agreeing with that of the best *Protestants*, than to observe their dealings with her Dissenting Brethren for the rejecting of her Ceremonies, can scarce think it possible that this Difference should have produced so Violent a persecution; especially against such who immediately before had done them the greatest Service, in contributing so readily to the means of their Restitution. And it is true also that some of that Communion, especially in your

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Parts, (as appears by their late Prints) do endeavour to Apologize for their former Rigours and Cruelties, partly by exclaiming against Perſecution, and partly by ſuggeſting that the late Severities uſed against *Diſſenters* were ſet on Foot by a *Popiſh party* and Deſign at Court, on purpoſe to increaſe their Number and render them more unquiet, that ſo the *Parliament* might have been conſtrain'd to grant a general *Toleration* wherein the *Roman Catholicks* might be included; The great Deſign of this Myſtery. But the firſt of theſe Excuſes being now too late, and the other being falſe, and viſibly affected; I cannot but ſtill with that this their extraordinary Zeal for the Excluſion of *Roman Catholicks* be not a meer effect of their itch after their former Power and Practice of perſecuting *Proteſtant Diſſenters*; and withal that the Remembrance of our late Sufferings may put *Proteſtants* as well as *Roman Catholicks* in mind of their Failings, to the end that all Parties may become more ſober and averſe to all manner of Perſecution for ever.

Thirdly, Seeing you lay the greateſt ſtreſs of your Argument upon the hazard that you pretend lies in the making of *Roman Catholicks* capable of, and giving them Entry into publick Imployments, and particularly to take places in both Houſes of Parliament, I intreat you to obſerve that it is evident in point of fact, that *Roman Catholicks* are already in many Publick Imploy-

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ments, and that those Imployments will always depend, as they have ever depended, upon the pleasure of the *Prince Regnant:* So that considering how it is with us at this present, any Man that is possessed with this Fear ought rather to rejoyce then to be grieved at the *Majestie's* design of *Liberty*: Because it plainly carries a Relief against this Apprehension, by opening a Door to *Dissenting Protestants* also to enter into such Imployments, who are not forward to do it while the restraining Laws, that lie upon them also, remain in force. And as his *Majesty* hath already begun to shew his Equality in conferring of publicks Imployments as well on *Dissenters* as on *Roman Catholicks*, the taking away of those Laws will certainly induce Him to a yet greater Freedom in that particular. Whereas on the contrary, it is more than probable that the refusing to gratifie Him in that Repeal, may, instead of hindering *Roman Catholicks* to be further imployed in publick Trusts, rather provoke Him by the disobligation to intend the thing more vigorously; and also irritate that whole party, (who must needs look upon this Denyal for the present as a Threatning for the future) to more extraordinary and worse Courses. And as to what is commonly said, that the keeping up of the *Test* will at least be a Bar to many, who otherwise might be tempted to turn by the Bait of a good Imployment; as also that it will be some Re-

ſtraint upon ſuch as are advanced, and make them act moderately; I muſt crave leave to ſay that the contrary is to me farr more probable: For whoſoever can be ſuppoſed capable to turn for a place, will certainly time his turn, ſo as that it may have moſt of Merit: and conſequently will rather ſeek to recommend himſelf by frank reliance upon the Kings Declaration for Liberty, than coming in ſneakingly afterwards under the Security of the deſired Repeal; Eſpecially when it cannot be doubted, but that, both by the Fundamental Laws of Government, and alſo by the force of his Majeſtie's Prerogative, from which no Succeſſor will willingly derogate, thoſe that are or ſhall be imployed are in all Events ſecured; And that at leaſt it is incontrovertibly as ſafe for a Man to accept of a publick Imployment as to go to a Conventicle.

Fourthly, The moſt material Conſideration on this point ſeems to be much by you neglected, *viz. That we are not in the condition of an abſolute free choice, but under the limited offer of a plain alternative, I mean, Either that the preſent Liberty ſhall be continued on condition that the reſtraints of* Teſts *be alſo taken off from* Roman Catholicks; *or elſe, if this be denyed, that the other ſhall at leaſt become more precarious.* Now, whether a true *Proteſtant*, having the fear of GOD (as you expreſs it) in this Conjuncture, and in a juſt view of all our Circumſtances, may not very allowably think that

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the free Liberty of the Gospel (as being GODS way) is more valuable, as to the Interest of the *Protestant* Religion, than the exclusion of a few *Roman Catholicks* from having place in parliament, (for to this narrow Compass we see it plainly brought) which is but Man's way; and whether this last may not well be contented to, for the establishing of the first, let all Impartial Men judge. You tell us, that *If the* Protestant Dissenters *should, upon this account, be deprived of their Liberty, the* Roman Catholicks *are only to blame for it*; Who, rather than be restrained from having a share in the Government, do chuse to have both themselves and the *Protestant Dissenters* ly still under the weight of the *Penal Laws*. But if the propotal made to the Dissenters be fair, and their complyance not sinful, you must of necessity grant that for them to be dispossessed of their Liberty (the great concern of their Souls, and the best Method of supporting true Religion) is but poorly repaired, by telling them that *Roman Catholicks* are to blame for it.

Fifthly. Your frequent supposing, *That the* Roman Catholicks *will be still attempting to overturn the* protestant Religion, *and disturb the Kingdoms Peace, and that they will get into all places of Trust, and press the King in conscience, and give him no rest untill they accomplish their Designs*; appear to me to be too manifest improvements of a melancholy jealousie. For, as hath been often said, it is not a

Imple *Repeal* of *Penal Laws* and *Tests*, but the Eſtabliſhment of an equal Liberty, whereby the *Proteſtant* as well as the *Roman Catholick* may be ſecured againſt all perſecution, that his Majeſty deſigns. So that it is not poſſible that you ſhould judge the Repeal of the *Teſt* to be the Licenſing of *Roman Catholicks* to attempt the ruin of the *Proteſtant Religion*, unleſs you think that the *Proteſtant Religion* can never by Law be ſecured againſt the attempts of others, if it be not at the ſame time armed with a power to perſecute them.

Sixthly, You tell us, *That Roman Catholicks are not ſhut out amongſt you from Military Imployments, and that it had been hard to have done it; both becauſe of the good Services they did you in the Wars for defence of your Liberty deſerved that Recompence; & becauſe their number being but few, any inconveniency arysing from their admiſſion might eaſily be prevented.* Now by this you plainly acknowledge that this whole matter is ſubject to a Rational Deliberation, and is to be determined by the weighing the Conveniencies & Inconveniencies that attend ſuch an Admiſſion or Excluſion, without entering into any deeper reflection, about the Lawfulneſs or Unlawfulneſs thereof. And further, I muſt tell you that his Majeſty has not only the ſame Conſiderations that you mention to move him in Favour of his *Roman Catholick* Subjects, but, all things conſidered, I think it may very well be aſſerted that the admitting of *Roman Catholicks* with you to Milita-

ry Imployments is much more unneceſſary, than the admitting of them with us to place in Parliament (upon the Conditions declared) can be dangerous; and that if the Adventure be on this ſide more hazardous, yet it is compenſated with *counterbalancing* Advantages, that render it much more excuſable than your unneceſſary *practice*.

Seventhly, Tho you are pleaſed according to you ordinary prudence and Moderation to propoſe your Fears with much Modeſty, yet others there are in your parts, as well as here who ſpeak out the Devices of their own Imaginations more plainly, and tell us, *That if the* Teſt *were taken away, his* Majeſty *might by a new Creation of Peers, and by bold Returns into the Houſe of Commons, get a parliament, of ſuch a Temper as would abſolutely forbid the Exerciſe of the* Proteſtant Religion, *Revive the Act* De Comburendo *and make yet greater Alterations in the Government.* But how vain and groundleſs, to ſay no worſe, theſe Apprehenſions are may appear, by what his *Majeſty* hath already done in putting a ſtop to our late perſecution; which in the opinion of many might have carried on that change in Religion more effectually (becauſe more eaſily and inſenſibly) than the Act *De Comburendo*, and all the Fires that it kindled. Beſides, whatever be the ſecurity that Men aſcribe to theſe excluding Laws, it is only from the force they have as Acts of parliament, that it ariſes. Why then ſhould not the ſame

force of Law as well secure the *Protestant Religion* in its just Liberty, without the power of persecuting, as now its thought to do with it? And as for the Facility the King may have to fill both Houses with *Roman Catholicks*, when the *Test* shall be abrogated, Why may he not as well first fill them in that manner, and abrogate it afterwards? For it is judged by many to be no less than a Fundamental in our Government, that Kings Call, with the peoples Choice, and the Lords and Commons assembling thereupon, with his *Majesties* Approbation, are all the Essentials of a parliament; and that no parliament can so pre-engage and limit another by any Act or Oath, that it cannot act as a parliament until it first comply therewithall. If such a power of Limitation were admitted, One parliament might by an Oath framed for the purpose, restrain, weaken, and even make void the power of all succeeding parliaments for ever. So long indeed as *Oaths* and *Tests* appointed by Acts of parliament do stand unrepealed, they are undoubtedly binding. But to think that one parliament can so bind up and prescribe Rules to another, that tho it may repeal the very Act so binding and prescribing, yet it hath no power to do so till first it submit it self by Oath unto the Rules prescribed (and then perjure it self by the Repeal) is an Absurdity against the very Essence of parliaments.

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But *Lastly*, As matters ought not to be strained on either side, (especially when all things concur on his *Majesties* part to perswade to a fair and right understanding, in order to the establishing of Peace, securing of Right and Property, and the putting an end to our so unnatural and unchristian Persecutions) So it cannot be doubted by any discerning person, that the present Security of the *Protestant Religion* in these Kingdoms doth scarce at all depend on either *Penal Laws* or *Tests*, but principally on his *Majesties* Wisdom and Moderation, on the Constitution of our Government, and on those just Arguments for mutual Forbearance, which our present Circumstances do forcibly suggest to all Men, of all parties, that are capable to understand their own Interest, and have not wholly abandoned the use of it. Seeing therefore that it remains evident from what hath been said, that all these Penal Laws upon account of Religion, however Legal they may be called, are no ways Evangelical; and that though they may have been at first piously intended for the Conservation of Religion, and for the publick safety, yet in the event they have always proved unprofitable and unpolitick; And seeing also that all the Jealousies so industriously raised to obstruct his Majesties present Design of Liberty are sufficiently removed, not only by the assurance of his Royal Word, and the manifest engagement of his Honour, but

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by the demonstrative Evidence that lyes in the circumstances of things themselves, I cannot but heartily wish that all Men, and above all their Highnesses, may give their effectual concurrence to so good and great a Work. It is as I confess, as you say, very natural for all persons in power to favour those of their own Religion, & this in my Opinion ought to oblige us to make the fairest construction on of what his Majesty doth in behalf of those that are of his. But it must also be acknowledged that it is a very extraordinary, and noble and generous Disposition, in his to be so gentle and indulgent to those subjects that are of a different Religion s: And that ought to beget in us an infidence in what he promises, and per- his Subjects, of what Profession soever, ured both of a firm Support in the dew of Liberty, and of a favourable pro- n his Majesties Authority.

In my former Letters I adventured to insinuate to my Friend how much I judged their Highnesses obliged, as well by their own interest and that of the *Protestant Religion*, as by their Relation to his Majesty, to comply with him in this Affair. But that being a Subject too high and too delicate for me to ingage any further in, I will not now presume to add any thing further upon it.

My Lord, having thus faithfully represented to you such thoughts as have occur'd to my mind upon

upon the perusal of your Letter, I judge it not needful nor decent for me to enter into further particulars; As how this Liberty may be established, to all the Intents and withal the Advantages above mentioned. But, in my humble Opinion, his *Majesties Proclamations* of the fourth of *April* 1687. And of the twenty fourth of *April* last, are a very excellent Foundation for that Work; which I wish were compleated with a Parliamentary Ratification, to the vindicating of the Divine Right of Religion and Conscience from all Human Impositions, the confirmation of our Peace, and the Advancement of his Glory, and the Kingdoms Prosperity. It is no doubt a great Undertaking to offer to satisfie the Jealousies and Fears, in such high and tender matters, may arise from the conflict of so various Interests as are concerned therein. But this small Essay that I have made, being [illegible] involuntary, and such as your Lordship [illegible] in a manner extorted from me, I hope those Considerations will be accepted as a just Apology for my having thus far pursued it in all Sincerity. And for the future tho I am firmly resolved to meddle no more in such Debates, Yet I shal always remain, as I acknowledge my self to be indispensibly obliged,

My Lord,

Edinburgh, May the 8th. 1688. } *Your Lordships most Humble & most Obedient Servant,* James Stewart.

FINIS.